

**Introduced by Senator Aanestad**

February 18, 2005

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An act to amend Sections 8494, 8495, 8841, and 8842 of, and to add Section 8836.5 to, the Fish and Game Code, relating to fish and game.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 507, as introduced, Aanestad. Fishing: trawl nets.

(1) Existing law generally permits the use of trawl nets, as defined, for the taking of fish and other marine life, except as otherwise prohibited for specific species or in various areas of the state. Existing law requires any vessel using bottom trawl gear in state-managed halibut fisheries to possess a halibut bottom trawl permit issued by the Department of Fish and Game that authorizes the use of trawl gear for the take of California halibut and authorizes those permits to be transferred in certain circumstances. Existing law specifies that prior to the adoption of a halibut trawl restricted access program, halibut trawl vessel permit fees to cover the costs of administration may not exceed \$1,000 per permit.

The bill would permit halibut trawl permits to be fully transferable for a fee of \$150, not more than once in any 12-month period, once a restricted access program is adopted by the Fish and Game Commission. The bill would also limit the vessel permit fees to cover the cost of administration to \$100 per permit.

(2) Existing law designates certain ocean waters as the California halibut trawl grounds, and prohibits the use of trawl gear for the take of fish in specified areas of the California halibut trawl grounds. Existing law closes specified areas in the California halibut trawl grounds to trawling, unless certain findings are made by the commission. Existing law prohibits any trawl net that utilizes less than

5 inch mesh in the body of the net, or that uses any trawl doors on the net that exceed 500 pounds in weight from being used in the California halibut trawl grounds, as provided.

This bill would open certain closed areas in the California halibut trawl grounds to trawling, and would require the commission to direct the department to work with state and federal programs annually for 3 years, commencing January 1, 2006, in order to ensure that the halibut trawl fishery in the California halibut trawl grounds minimizes bycatch, is not damaging the sea floor, is not adversely affecting ecosystem health, and is not impeding reasonable restoration of kelp, coral, or other biogenic habitat. The bill would require the department to synthesize and report the information to the commission, and would require the commission to then make a determination as to the sustainability of the halibut trawl fishery in the California halibut trawl grounds, as provided.

The bill would also allow the usage of any trawl net that utilizes less than 4 1/2 inch mesh in the body of the net, or that uses any trawl doors on the net that exceed 600 pounds in weight, as specified.

(3) Existing law specifies that in Districts 17, 18, and 18.5, trawl nets may be used in waters not less than 3 nautical miles from the nearest point of land on the mainland shore, including those portions of Monterey Bay, Estero Bay, and San Luis Obispo Bay which lie within those districts.

(4) Existing law grants the commission authority over all state-managed bottom trawl fisheries not managed under a federal or state fishery management plan, and over other types of gear targeting the same species as those fisheries. Existing law provides that, commencing April 1, 2006, it is unlawful to fish commercially for prawns or pink shrimp, unless an approved bycatch reduction device is used with each net. Existing law also makes unlawful bottom trawling in ocean waters of the state, except as provided.

This bill would define “approved bycatch reduction device” and would delete the provision making unlawful the act of bottom trawling in ocean waters of the state.

(5) Existing law allows the usage of trawl nets of a design prescribed by the commission to be used or possessed to take shrimps or prawns under a permit issued by the department under regulations adopted by the commission. Existing law designates only specified fish and game districts and certain waters as areas where shrimps and prawns may be taken, as specified.

This bill would delete the provision designating specific areas where shrimps and prawns may be taken, as provided.

This bill would provide that, notwithstanding that provision of law, trawl nets, except midwater trawl nets, may be used in a portion of District 18, as specified.

(6) Existing law makes a violation of the Fish and Game Code a misdemeanor punishable by fine, imprisonment, or both.

This bill would impose a state-mandated local program by changing the definition of a crime.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8494 of the Fish and Game Code is  
2 amended to read:

3 8494. (a) Commencing April 1, 2006, any vessel using  
4 bottom trawl gear in state-managed halibut fisheries, as described  
5 in subdivision (a) of Section 8841, shall possess a halibut bottom  
6 trawl permit issued by the department that authorizes the use of  
7 trawl gear by that vessel for the take of California halibut. An  
8 application for a California halibut bottom trawl vessel permit for  
9 the 2006–07 season shall be received by the department not later  
10 than January 1, 2006.

11 (b) A halibut bottom trawl vessel permit shall be issued  
12 annually, commencing with the 2006 permit year. Commencing  
13 with the 2007-08 season, in order to be eligible for that permit,  
14 an applicant shall have previously held a valid California halibut  
15 bottom trawl vessel permit.

16 (c) The department shall not issue a bottom trawl vessel permit  
17 pursuant to this section for use in the halibut fishery unless that  
18 vessel has landed a minimum of 200 pounds of California halibut  
19 and reported that landing on fish tickets as being caught with  
20 bottom trawl gear in at least one of the following:

1 (1) At least two of the calendar years 1995 to 2003, inclusive.

2 (2) At least one of the calendar years 1995 to 2003, inclusive,  
3 and from January 1, 2004, to February 19, 2004, inclusive.

4 (d) Permits issued pursuant this section may be transferred  
5 ~~only~~ if at least one of the following occur:

6 (1) The commission adopts a restricted access program for the  
7 fishery, including, but not limited to, if necessary, a plan for  
8 reducing capacity in this fishery in a manner that is consistent  
9 with the commission's policies regarding restricted access to  
10 commercial fisheries.

11 (2) Prior to the implementation of a restricted access program,  
12 the permit is transferred to another vessel owned by the same  
13 permitholder of equal or less capacity, as determined by the  
14 department based on the United States Coast Guard  
15 documentation papers, and if the originally permitted vessel was  
16 lost, stolen, destroyed, or suffered a major irreparable mechanical  
17 breakdown. The department may not issue a permit for a  
18 replacement vessel if the department determines that the  
19 originally permitted vessel was fraudulently reported as lost,  
20 stolen, destroyed, or damaged. Only the permitholder at the time  
21 of the loss, theft, destruction, or irreparable mechanical  
22 breakdown of a vessel may apply to transfer the vessel permit.  
23 Evidence that a vessel is lost, stolen, or destroyed shall be in the  
24 form of a copy of the report filed with the United States Coast  
25 Guard, or any other law enforcement agency or fire department  
26 that conducted an investigation of the loss.

27 (3) Prior to the implementation of a halibut trawl restricted  
28 access program, a vessel permitholder, or his or her heirs or  
29 assigns, requests to transfer the permit because of the death or  
30 permanent disability of the permitholder or the decision by the  
31 permitholder to retire from fishing upon reaching or exceeding  
32 age 65, and halibut landings contributed significantly to the catch  
33 record and economic income derived from the vessel, and the  
34 permit is authorized by the department to be transferred with the  
35 vessel. The department may request information that it  
36 determines is reasonably necessary from the permitholder or his  
37 or her heirs and assigns for the purpose of verifying statements in  
38 the request prior to authorizing the transfer of the permit.

39 (4) *Once a restricted access program is adopted by the*  
40 *commission, halibut trawl permits issued pursuant to this section*

1 *are fully transferable, but not more than once in any 12-month*  
2 *period.*

3 *(5) Fees for transfer of the halibut trawl permit shall be one*  
4 *hundred fifty dollars (\$150).*

5 (e) The commission shall establish California halibut bottom  
6 trawl vessel permit fees based on the recommendations of the  
7 department and utilizing the guidelines outlined in subdivision  
8 (b) of Section 711 to cover the costs of administering this  
9 section. ~~Prior to the adoption of a restricted access program~~  
10 ~~pursuant to subdivision (d), However, the fees may not exceed~~  
11 ~~one thousand dollars (\$1,000) one hundred dollars (\$100) per~~  
12 ~~permit.~~

13 (f) Individuals holding a federal groundfish trawl permit may  
14 retain and land ~~up to 150 pounds of~~ California halibut ~~per trip~~  
15 without a California halibut trawl permit in accordance with  
16 federal and state regulations, including, but not limited to,  
17 regulations developed under a halibut fishery management plan.

18 (g) This section shall become inoperative upon the adoption  
19 by the commission of a halibut fishery management plan in  
20 accordance with the requirements of Part 1.7 (commencing with  
21 Section 7050).

22 SEC. 2. Section 8495 of the Fish and Game Code is amended  
23 to read:

24 8495. (a) The following area is designated as the California  
25 halibut trawl grounds:

26 The ocean waters lying between one and three nautical miles  
27 from the mainland shore lying south and east of a line running  
28 due west (270° true) from Point Arguello and north and west of a  
29 line running due south (180° true) from Point Mugu.

30 (b) Notwithstanding the provisions of subdivision (a), the use  
31 of trawl gear for the take of fish is prohibited in the following  
32 areas of the California halibut trawl grounds:

33 (1) Around Point Arguello. The area from a line extending  
34 from Point Arguello true west (270°) and out three miles, to a  
35 line extending from Rocky Point true south (180°) and out three  
36 miles.

37 (2) Around Point Conception. From a point on land  
38 approximately one-half mile north of Point Conception at latitude  
39 34° 27.5' extending seaward true west (270°) from one to three  
40 miles, to a point on land approximately ½ mile east of Point

1 Conception at longitude 120° 27.5' extending seaward true south  
2 (180°) from one to three miles.

3 (3) In the Hueneme Canyon in that portion demarked by the  
4 IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 and  
5 from one mile to the three mile limit of state waters.

6 (4) In Mugu Canyon, from Laguna point, a line extending true  
7 south (180°) and out three miles, to Point Mugu, a line extending  
8 true south (180°) and from one to three miles.

9 ~~(e) (1) Notwithstanding the provisions of subdivision (a),~~  
10 ~~commencing April 1, 2008, the following areas in the California~~  
11 ~~halibut trawl grounds shall be closed to trawling, unless the~~  
12 ~~commission finds that a bottom trawl fishery for halibut~~  
13 ~~minimizes bycatch, is likely not damaging seafloor habitat, is not~~  
14 ~~adversely affecting ecosystem health, and is not impeding~~  
15 ~~reasonable restoration of kelp, coral, or other biogenic habitats:~~

16 ~~(A) The ocean waters lying between one and three nautical~~  
17 ~~miles from the mainland shore from a point east of a line~~  
18 ~~extending seaward true south (180°) from a point on land~~  
19 ~~approximately ½ mile east of Point Conception at longitude 120°~~  
20 ~~27.5' to a line extending due south from Gaviota:~~

21 ~~(B) The ocean waters lying between one and two nautical~~  
22 ~~miles from the mainland shore lying east of a line extending due~~  
23 ~~south from Santa Barbara Point (180°) and west of a line~~  
24 ~~extending due south from Pitas Point (180°).~~

25 ~~(C) Except as provided in subdivision (b), the ocean waters~~  
26 ~~lying between one and three nautical miles from the mainland~~  
27 ~~shore lying south and east of a line running due west (270° true)~~  
28 ~~from Point Arguello to a line extending seaward true south~~  
29 ~~(180°) from a point on land approximately ½ mile east of Point~~  
30 ~~Conception at longitude 120° 27.5', and from the western border~~  
31 ~~of the IMO Vessel Traffic safety zone on NOAA/NOS Chart~~  
32 ~~18725 in Hueneme Canyon running south and east to a line~~  
33 ~~running due south (180° true) from Point Mugu.~~

34 ~~(2) In making the finding described in paragraph (1), the~~  
35 ~~commission shall pay special attention to areas where kelp and~~  
36 ~~other biogenic habitats existed and where restoring such habitats~~  
37 ~~is reasonably feasible, and to hard bottom areas and other~~  
38 ~~substrate that may be particularly sensitive to bottom trawl~~  
39 ~~impacts.~~

~~(d) Commencing January 1, 2008, the commission shall review information every three years from the federal groundfish observer program and other available research and monitoring information it determines relevant, and shall close any areas in the California halibut trawl grounds where it finds that the use of trawl gear does not minimize bycatch, is likely damaging seafloor habitat, is adversely affecting ecosystem health, or impedes reasonable restoration of kelp, coral, or other biogenic habitats. The commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts in making that finding.~~

~~(e)~~

*(c) In order to ensure that the halibut trawl fishery in the California halibut trawl grounds minimizes bycatch, is not damaging the sea floor, is not adversely affecting ecosystem health, and is not impeding reasonable restoration of kelp, coral, or other biogenic habitat, the commission shall direct the department to work with state and federal observer programs and other available research and monitoring programs annually for three years, commencing January 1, 2006. The department shall synthesize and report this information to the commission at the end of the three- year period. The commission shall then make a determination as to the sustainability of halibut trawl fishery in the California halibut trawl grounds. Further synthesis and reporting of observer data on these topics shall then be determined as appropriate by the commission.*

*(d) Notwithstanding any other provision of law, no trawl net shall be used in the California halibut trawl grounds with an entrance greater than 60 feet across and 6 feet in height, with wing panels that exceed 100 feet in length, that utilize less than 54½ inch mesh in the body of the net and less than 7½ inch mesh in the cod end of the net, or that uses any trawl doors on the net that exceed 500 600 pounds in weight. The commission may order modifications in net and mesh size as it determines necessary to assure trawl gear is used in a sustainable manner within the California halibut trawl grounds.*

SEC. 3. Section 8836.5 is added to the Fish and Game Code, to read:

1 8836.5. Notwithstanding Section 8836, trawl nets, excluding  
2 midwater trawl nets, may be used in that portion of District 18  
3 between a line running due west from Yankee Point and a line  
4 running due west from Point Sur, in waters not less than one  
5 nautical mile from the nearest point of land on the mainland  
6 shore.

7 SEC. 4. Section 8841 of the Fish and Game Code is amended  
8 to read:

9 8841. (a) The commission is hereby granted authority over  
10 all state-managed bottom trawl fisheries not managed under a  
11 federal fishery management plan pursuant to the  
12 Magnuson-Stevens Fishery Conservation and Management Act  
13 (16 U.S.C. Sec. 1801 et seq.) or a state fishery management plan  
14 pursuant to the Marine Life Management Act (Chapter 1052 of  
15 the Statutes of 1998), to ensure that resources are sustainably  
16 managed, to protect the health of ecosystems, and to provide for  
17 an orderly transition to sustainable gear types in situations where  
18 bottom trawling may not be compatible with these goals.

19 (b) The commission is hereby granted authority to manage all  
20 of the fisheries described in subdivision (a) in a manner that is  
21 consistent with the requirements of this section and in accordance  
22 with the requirements of Part 1.7 (commencing with Section  
23 7050), including, but not limited to, the following:

24 (1) California halibut.

25 (2) Sea cucumber.

26 (3) Ridge-back, spot, and golden prawn.

27 (4) Pink shrimp.

28 (c) The commission is also granted authority over other types  
29 of gear targeting the same species as the bottom trawl fisheries  
30 referenced in subdivision (a) to manage in a manner that is  
31 consistent with the requirements of Part 1.7 (commencing with  
32 Section 7050).

33 (d) Every commercial bottom trawl vessel issued a state  
34 permit is subject to the requirements and policies of the federal  
35 groundfish observer program (50 C.F.R. 660.360).

36 (e) The commission may not authorize additional fishing areas  
37 for bottom trawls, unless the commission determines that  
38 adequate evidence establishes that additional fishing areas are  
39 sustainable, do not harm bottom habitat, and do not reasonably  
40 conflict with other users.



1 (f) It is unlawful to use roller gear more than eight inches in  
2 diameter.

3 (g) Commencing April 1, 2006, it is unlawful to fish  
4 commercially for prawns or pink shrimp, unless an approved  
5 bycatch reduction device is used with each net. For the purposes  
6 of this subdivision, ~~a rigid grate fish excluder device is the~~  
7 ~~approved type of bycatch reduction device, unless the~~  
8 ~~commission, the Pacific Fishery Management Council, or the~~  
9 ~~National Marine Fisheries Service determines that a different~~  
10 ~~type of fish excluder device has an equal or greater effectiveness~~  
11 ~~at reducing bycatch~~ *“approved bycatch reduction device” is*  
12 *defined pursuant to Section 120 (f) of Title 14 of the California*  
13 *Code of Regulations, or any other bycatch reduction device*  
14 *deemed equivalent by the Marine Region of the department.*

15 (h) ~~Except as provided in Section 8495 or 8842, it is unlawful~~  
16 ~~to engage in bottom trawling in ocean waters of the state.~~

17 (i) ~~This section does not apply to the use of trawl nets pursuant~~  
18 ~~to a scientific research permit.~~

19 ~~(j)~~

20 (i) The commission shall facilitate the conversion of bottom  
21 trawlers to gear that is more sustainable if the commission  
22 determines that conversion will not contribute to overcapacity or  
23 overfishing. The commission may participate in, and encourage  
24 programs that support, conversion to low-impact gear or capacity  
25 reduction by trawl fleets. The department may not issue new  
26 permits to bottom trawlers to replace those retired through a  
27 conversion program.

28 ~~(k)~~

29 (j) As soon as practicable, but not later than May 1, 2005, the  
30 commission and the

31 ~~(k)~~

32 department shall submit to the Pacific Fishery Management  
33 Council and the National Marine Fisheries Service a request for  
34 federal management measures for the pink shrimp fishery that the  
35 commission and the department determine are needed to reduce  
36 bycatch or protect habitat, to account for uncertainty, or to  
37 otherwise ensure consistency with federal groundfish  
38 management.

39 ~~(l)~~

1 (k) No vessel may utilize bottom trawling gear without a state  
2 or federal permit.

3 SEC. 5. Section 8842 of the Fish and Game Code is amended  
4 to read:

5 8842. (a) Trawl nets of a design prescribed by the  
6 commission may be used or possessed to take shrimps or prawns  
7 under a permit issued by the department under regulations  
8 adopted by the commission.

9 Sections 8831, 8833, 8835, and 8836 do not apply to trawl nets  
10 used or possessed under a permit issued pursuant to this section.

11 ~~(b) Trawling for shrimps or prawns shall be authorized only in~~  
12 ~~those waters of Districts 6, 7, 10, 17, 18, and 19 that lie not less~~  
13 ~~than three nautical miles from the nearest point of land on the~~  
14 ~~mainland shore, and all offshore islands and the boundary line of~~  
15 ~~District 19A, except that in waters lying between a line extending~~  
16 ~~due west from False Cape and a line extending due west from~~  
17 ~~Point Reyes, trawling is allowed not less than two nautical miles~~  
18 ~~from the nearest point of land on the mainland shore until~~  
19 ~~January 1, 2008.~~

20 (e) ~~When fishing for pink shrimp (Pandalus jordani) under a~~  
21 ~~permit issued pursuant to this section, it is unlawful to possess in~~  
22 ~~excess of 1,500 pounds of incidentally taken fish per calendar~~  
23 ~~day of a fishing trip, except Pacific whiting, shortbelly rockfish,~~  
24 ~~and arrowtooth flounder, which may be taken in any amount not~~  
25 ~~in excess of federal regulations. No Pacific halibut and not more~~  
26 ~~than 150 pounds of California halibut shall be possessed or~~  
27 ~~landed when fishing under a permit issued pursuant to this~~  
28 ~~section. When fishing for ridgeback prawn and spotted prawn~~  
29 ~~under a permit issued pursuant to this section, it is unlawful to~~  
30 ~~possess in excess of 1,000 pounds of incidentally taken fish per~~  
31 ~~trip.~~

32 ~~(d) Commencing January 1, 2008, the commission shall permit~~  
33 ~~the taking of pink shrimp not less than two nautical miles from~~  
34 ~~shore in waters that lie between a line extending due west from~~  
35 ~~False Cape and a line extending due west from Point Reyes from~~  
36 ~~the nearest point of land on the mainland shore, if the~~  
37 ~~commission finds that, upon review of information from the~~  
38 ~~federal groundfish observer program and other available research~~  
39 ~~and monitoring information that it determines relevant, the use of~~  
40 ~~trawl gear minimizes bycatch, will not damage seafloor habitat,~~

1 ~~will not adversely affect ecosystem health, and will not impede~~  
2 ~~reasonable restoration of kelp, coral, or other biogenic habitats.~~  
3 ~~The commission shall pay special attention to areas where kelp~~  
4 ~~and other biogenic habitats existed and where restoring those~~  
5 ~~habitats is feasible, and to hard bottom areas and other substrate~~  
6 ~~that may be particularly sensitive to bottom trawl impacts in~~  
7 ~~making that finding.~~

8 SEC. 6. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the  
13 penalty for a crime or infraction, within the meaning of Section  
14 17556 of the Government Code, or changes the definition of a  
15 crime within the meaning of Section 6 of Article XIII B of the  
16 California Constitution.